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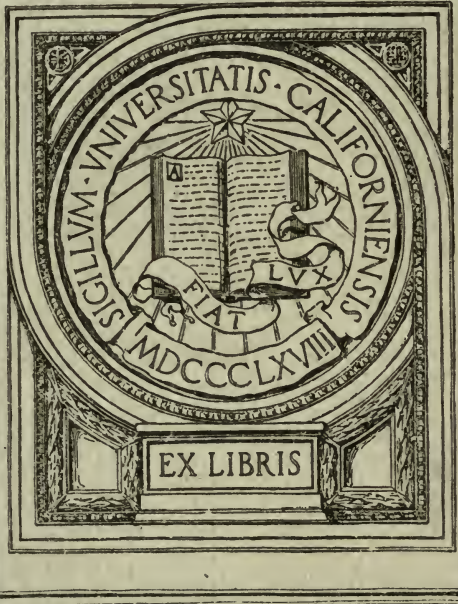
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The Canadian Method of Preventing Strikes and Lockouts

Address by

HON. W. L. MACKENZIE KING

FORMER CANADIAN MINISTER OF LABOR

Delivered at the Annual Dinner of the

RAILWAY BUSINESS ASSOCIATION

UNIV. OF
CALIFORNIA

DECEMBER 19, 1912

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REQUESTS FOR COPIES of this pamphlet will be welcome from all those desiring to place it in the hands of their representatives, employees or friends. Copies furnished or sent direct to lists upon application to Frank W. Noxon, Secretary, Railway Business Association, 2 Rector Street, New York.

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TO VIEW
ANNOTATIONS

Form B104

The Canadian Method of Preventing Strikes and Lockouts

Address by

HON. W. L. MACKENZIE KING

Former Canadian Minister of Labor

Delivered at the Fourth Annual Dinner of the Railway Business Association, the national association of manufacturers of railway materials, equipment and supplies, at the Waldorf-Astoria Hotel, New York, Dec. 19, 1912

I have been asked to speak this evening on the Canadian Industrial Disputes Investigation Act, but before doing so, may I express to you my sincere thanks at the honor which you have conveyed in inviting me as your guest this evening. May I, Mr. President, thank you this evening for the exceptionally cordial welcome which you have extended, and the more than generous words in which you have phrased it. I would like also, gentlemen, to thank you for the honor in allowing me to be associated on this occasion with so distinguished a citizen of your country as Mr. J. J. Hill. (Great applause.)

Coming from Canada, it is indeed a pleasure to remember that Mr. Hill, though today an American citizen, was at one time also a Canadian (applause). Ours is the land of his birth; yours is the land of his adoption. If there ever was a time when I had the privilege of approaching anything in the nature of fame, I think it was this evening when I learned from Mr. Hill that I had the honor of being born within 20 miles of where he was born (laughter and applause).

Well, gentlemen, we of both countries feel pride in his worthy and noble character, and in the vastness of his achievements. Each country has profited by his example, and his work is at once the prophecy and its fulfillment of the inheritance which we have in common (applause).

To be born on the North American continent, whether to the north or to the south of the Great Lakes and the 49th parallel is to have not merely the opportunity to share in the work of fashioning the future of one country or the other, but it is also to have the greater opportunity of participating in the work of furthering commercial supremacy, industrial supremacy, and the maintenance of peace along lines of enlightened development, which make the growth of a nation, the growth of a continent, stand out in the van of human progress, and make its enlightened development the envy of the civilized world (great applause).

THE AMERICAN PEACE

At this particular time, gentlemen, while Europe is adding another chapter to the tragic story of international strife, and the curse of competitive arming is engendering the hatred and the passions of men and of nations, we, as the President of your Association has said tonight, are approaching the cele-

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bration of 100 years of peace along the boundary line of no less distance than 4,000 miles, a boundary line which extends from the Atlantic, which unites us to Europe on the one side, across to the Pacific which unites us with Asia on the other. Along this great frontier we of the New World have substituted granaries for arsenals and factories for forts (applause), and for rivalries in fleets and in armies we have substituted the rivalries of commerce and trade, to the advancement of the good of our respective countries, and of this Continent, which we share in common, and to the fostering among our peoples of the amenities rather than the animosities of life.

INDUSTRIAL PEACE

This, gentlemen, is a circumstance which as time records its story will have an important bearing upon the part which this Continent will play in world supremacy. If to the maintenance of international peace we are able to add something in the nature of stability and maintenance of industrial peace, this continent should rise to a position of commercial and industrial importance, while Europe and the nations of Europe carry around their shoulders the legacies of past wars and the burden of existing armaments, and Asia struggles for the light and learning which has given us the civilization we enjoy today (applause).

It is from this point of view that I wish this evening to speak on the subject of industrial peace; to speak on the Canadian Industrial Disputes Investigation Act and to touch, where the occasion seems to permit it, on some comparisons between that legislation and existing legislation in this country, and possibly existing experiments in other lands.

FIRST CONCILIATION ACT

The Canadian Industrial Disputes Investigation Act was the outgrowth of previous legislation and of experience gathered from previous legislation, and its working not only in Canada, but in other countries as well. The first act enacted by the Federal Parliament having to do with the question of industrial peace was the Conciliation Act of 1900. This act was copied from the Conciliation Act of Great Britain of the same name, the act under which Sir George Asquith has effected so many splendid settlements of recent years.

The Conciliation Act was a voluntary act and did not apply compulsion in any shape or form, but provided machinery whereby the State, upon the request of either of the parties to a dispute, or of its own motion, might lend its good offices toward the friendly mediation or settlement of a threatened or existing dispute. That was the first act which was introduced by Sir William Mulock, at that time Postmaster General of Canada.

RAILWAY LABOR DISPUTES ACT

Three years later it was followed by another act, the Railway Labor Disputes Act, which, as its name implies, was confined to disputes on railways, actual or apprehended disputes calculated in some way to impede the progress of the mails or dislocate transportation. This measure was somewhat similar to the Conciliation Act, in that it provided machinery by the State for use in the intervention and settlement of industrial disputes, but it went one step further. It provided machinery whereby in the event of a difference of statement between the parties, there would be some means of getting at the facts. It provided the true facts of the case under oath. It made provision for establishment of a Board upon which each of the parties to a dispute might be represented, and gave that Board the power to summon before it witnesses, to compel the production of affidavits, to take evi-

dence under oath, and to prepare a report in order to influence public opinion. That was the extent of the compulsion in that particular measure. It simply provided machinery similar to machinery existing in the courts at the time to enable the parties to get better at the facts. It contained, however, no provision of any kind of restriction one way or another.

ORIGIN OF PRESENT ACT

In the summer of 1906, or in the early spring of that year, the mines in Lethbridge, in the southern part of the Province of Alberta, were stopped, owing to a strike. That strike continued until late on into the fall, and suddenly the people in these Western provinces of Canada realized that they were face to face with the approach of winter, and that owing to the cessation of operation in these mines they had no coal with which to meet the situation. For a time the Canadian West was almost in a state of consternation. They had not grasped the thought. They had not realized during the summer months that the supply of coal on which they would be dependent in the winter was not forthcoming, and it was only when the snow began to fly that they began to take estimates of what they had in the way of provision for the winter, realized that winter was upon them and that they had not the wherewithal to meet the situation.

To show the condition at that moment, let me read a letter which was sent by one of the settlers on the plains to Sir Wilfred Laurier, who was Prime Minister of Canada at that time.

As the assertion of a free man of his rights as a free man, and the obligations which he has a right to expect from the State, it is, I think, an historic document. It will appeal to you all, I am sure, as one of the most interesting of human documents.

A HUMAN DOCUMENT

This letter is dated:

Local Improvement District of Ramsay,

Saskatchewan, Nov. 19, 1906.

"Dear Sir Wilfrid:

The hamlet of Bladworth is the supplying point for settlers in approximately 12 townships surrounding.

"These townships have approximately 50 settlers each settled therein. The country is open rolling prairie, devoid of trees. The settlers depend for fuel on wood or coal obtained at the nearest railway station —Bladworth. The local dealers secure their wood from the Prince Albert country, and their coal from the Galt mines, Lethbridge. No coal has been obtained from this latter source since April last. One car was obtained from Banff in September last, since which no coal has been received here. Ten cars are under orders from Lethbridge and none delivered. One car is ordered from Estevan and promised by the mine operator for Dec. 17 next.

"Wood has been ordered from the Cowan Company, Prince Albert, and their answer is:

" 'We have neither slabs, edgings, nor cuttings, and though we have inquired, we are unable to purchase any cord wood as there is none in the city.'

"Settlers have been burning lumber at $30 a thousand, willow bramble, twisted hay and grain. These sources are well nigh exhausted.

FACING DEATH

"Dr. J. Fyfe reports from observation that no fuel is in the settlers' hands, and that suffering and perhaps death will ensue therefrom. All public schools are closed for want of fuel. The Saskatchewan Hotel, a 30-roomed house, has but one fire.

"A blizzard has been blowing on Nov. 15, 16 and 17, with zero

weather. I leave you, sir, to imagine what the condition of your fellow subjects is in the electoral division of Batoche—a name not unknown in history. This condition is not local, but general.

THE RIGHT TO LIVE

"We are informed that those persons operating the mines of the people are disputing over their rights, regardless of the right of the people to live. I would respectfully ask, that you, sir, put an end to a dispute that is intolerable, and the maintenance of which endangers the life and happiness (inalienable rights of all free people) of all settlers.

"I ask you, sir, on behalf of a suffering people, that by the powers vested in you the right of eminent domain be exercised.

"I can assure you, sir, without exaggeration that this matter is one of life and death to the settlers here, one requiring immediate action.

"Your obedient humble servant,

"WM. L. RAMSAY,
"Chairman of Committee."

DIFFICULTIES OF MEDIATION

Well, it would take too long, gentlemen, to recount the circumstances which brought that industrial dispute to a close. I hope you will pardon the personal reference, if, for the sake of helping to make clear the purpose underlying this Act, I mention to you that having been sent to deal with that particular situation, I encountered amid these circumstances the two obstacles which I imagine most men, who have had anything to do with the settlement of industrial disputes, have encountered on a great many occasions: In the first place the difficulty of getting the parties to meet together; and in the second place, the difficulty of getting accurate information in regard to disputed points when they are together.

Now, what was the situation in Saskatchewan at that time? There were settlers all over these prairies practically on the verge of freezing to death in their homes. There were municipalities unable to give any assistance one way or another to the people who belonged to them. There was the Province itself, absolutely incapacitated in the matter of bringing any relief. There was the will of the people of those provinces, the will of the people of the whole country, as expressed through the Dominion Parliament, desirous to affect the situation, and absolutely thwarted in its endeavor because the parties preferred to stand and debate the question whether such-and-such an action might mean the recognition of a union, or whether such-and-such a statement was or was not true.

ORIGINAL ISSUE FORGOTTEN

To make the situation more exasperating, one found, as I think one will usually find in connection with disputes that run on for a little time, that the main trouble had ceased to be the question at issue at the outset; that there had come to be an endless number of bickerings and bitternesses, and that the difficulty of getting over these prejudices and hatreds, which had been engendered during the course of the struggle, was a much more difficult task than the settlement of any question of actual condition of hours or of wages.

Well, gentlemen, it was having this situation in mind, having the folly and the criminality of such a set of circumstances impressed indelibly upon my mind that on returning to Ottawa, after that experience, I made up my mind that if it was possible to gain expression in legislation, to any measure which would help in the future to prevent a national calamity of that kind, I would use what chance might come to hand toward the attainment of that particular end. And so, after reaching Ottawa, Parliament being in session at the time, I ventured to set out the circumstances, and make one or two

recommendations. This is taken from the report given at the time:

ACT RECOMMENDED

"When it is remembered that organized society alone makes possible the operation of mines to the mutual benefit of those engaged in the work of production, a recognition of the obligations due society by the parties is something which the State is justified in compelling if the parties themselves are unwilling to concede it. In any civilized community private rights should cease when they become public wrongs. (Applause). Clearly, there is nothing in the rights of parties to a dispute to justify the inhabitants of a province being brought face to face with a fuel famine amid winter conditions, so long as there is coal in the ground, and men and capital at hand to mine it. Either the disputants must be prepared to leave the differences which they are unable to amicably settle to the arbitrament of such authority as the State may determine most expedient, or make way for others who are prepared to do so.

INVESTIGATION FIRST

"Inasmuch as coal is in this country one of the foremost necessaries, on which not only a great part of the manufacturing and transportation industries but also, as the recent experience has shown, much of happiness and life itself depends, it would appear that if legislation can be devised, which, without encroaching upon the recognized rights of employers and employees, will at the same time protect the public, the State would be justified in enacting any measure which will make the strike or lockout in a coal mine a thing of the past. Such an end, it would appear, might be achieved, at least in part, were provision made whereby, as in the case of the Railway Labor Disputes Act, all questions in dispute might be referred to a Board empowered to conduct an investigation under oath, with the additional feature, perhaps, that such reference should not be optional but obligatory, and pending the investigation and until the board has issued its finding the parties be restrained, on pain of penalty, from declaring a lockout or strike.

"In view of past experience and the present situation, I would, therefore, respectfully recommend that the attention of Parliament be, at as early a date as possible, invited to a consideration of some such or other measure with a view of preventing a possible recurrence of an experience such as this country has been forced to witness during the past month, and of promoting in the interests of the whole people the cause of industrial peace."

SCOPE BROADENED

Well, gentlemen, the recommendation contained there was subsequently elaborated into the form of a bill, and this bill was introduced into the House by the Hon. Rudolph Lemieux on Dec. 17, 1906. The House of Commons and Parliament generally having in mind the experience of that year were in a mood to take up legislation of that kind, and it passed rapidly through the House of Commons to the Senate, received the Royal Assent on March 22, and became law from that time.

Now that measure, as I have already indicated, while originally framed with a view of protecting the public, transportation companies, manufacturing concerns, and all classes in the community against the possible recurrence of a situation which might produce a fuel famine at a critical time, was widened so as to include all those classes of industries which we designate generally under the term of public utilities, those industries which have to do with the serving of the public generally, and which depend upon the public in such large measure for their success.

So the Act was broadened to include transportation companies of all kinds, street railways companies as well as

steam railway companies; mines of every class, metalliferous as well as coal mines, other agencies of communication and transportation, such as the telegraph and the telephone, electric lights, waterworks and civic works of different kinds, all that vast group which are so familiar to each of you under the head of "public service utilities."

That is the scope of the Act at the present time, and in considering this work and the effect of it, this should be kept in mind, because it goes much further in the classes of employees to which it applies than much existing legislation in other countries.

INVESTIGATION OBLIGATORY

The provisions are very simple. The Act provides that where a strike or lockout is threatened in any one of these industries, before such a strike or lockout can legally take place, the parties must refer their differences to a Board for settlement. The act provides machinery by which they make this reference. Each party, the party about to strike, or the party about to lockout, must serve a notice informing the government that unless a Board is appointed a strike or lockout will take place; that they have exhausted all possible means of arriving at a settlement between themselves, and that they ask the government to appoint a Board.

The notice served on the government contains a statement of the differences and a copy of that statement is required by the act to be sent to the other party to the dispute.

SPECIAL BOARD CHOSEN

Then the Minister of Labor calls upon each of the parties to name a member for the Board. The men who are applying or the company that is applying, in the first instance, are called upon to name one member; the opposite side are called upon to name a member, and these two chosen in this way meet together, and are given an opportunity to agree upon a chairman.

If they are unable to agree upon a chairman within a specified time then the Minister of Labor himself appoints a chairman, or if either party fails to name a member of a Board themselves, the Minister of Labor appoints someone to act in the place of the party not making the appointment.

This Board when it is appointed has almost the powers of a court. It may compel the production of documents; it may subpoena witnesses; it may take evidence under oath, but its duty is primarily that of a conciliation board in the first instance, and a board of mediation, and only secondarily that of a court.

OFFICIAL PUBLICITY

Once the parties have been brought before the Board in this fashion, if the Board through its good offices can bring about a settlement by conciliation, it prepares its report and sends it in to the government. If, however, they are unable to effect any settlement, then the Board prepares a report, which is given to the public, and announced through one of the government organs, given to the press, and sent broadcast throughout the land, and that report sets out what in the opinion of the Board is the real trouble at issue, and what, in its opinion, ought to be done in justice to the situation to prevent a strike or a lockout.

AWARD NOT COMPULSORY

There the function of the government ends. There is nothing in the act which compels the acceptance of this particular award. It is not compulsory arbitration. It is simply compulsory investigation. There is no restraint upon the parties. Once they have had this inquiry in the matter of whether a strike or lockout shall take place, they may do just as they please about it; but the act has this feature to it, that if the public is subjected to the inconvenience of the cessation of operation

in mines or upon railways, or any of these utilities, the public knows what the trouble is about, and what, in the opinion of men who have been appointed to look into it, appears to be the right and the fair thing to do.

THIRTY DAYS' NOTICE

That is the act as it stands at the present time. There have been one or two clauses added since the Act was introduced. One of them is a rather important one. This has to do with the notice which companies are supposed to give or men are supposed to give companies before any changes in wages or conditions affecting hours take place. The Act provides that at least 30 days' notice must be given by either party wishing to change the status quo in that particular. That at first sight may see somewhat arbitrary, but if you stop and think, all these large concerns, for the most part, have long standing agreements, and a 30 days' notice is a very customary thing in most cases; and the significance of that notice is the more apparent when I explain this feature to you.

When the Act was introduced, some of the men felt that in some of its particulars it put a little bit too much in the way of restraint upon them. They said: "An employer may threaten to change our wages, to lower our wages, or to increase hours or to do something of the kind which is adverse to us, and if we don't like it, we have to apply for a Board and then if a Board decides against us, we are told, 'You made the application and your own Board has decided against you. You ought to accept the result. The onus is on you for having applied for a board.'"

Now this amendment puts the onus on the party that wishes to make the change to make the application for the Board. If the men want an increase of wages, and the company objects to the increase, then the men ask for a Board to show cause why that increase should be granted.

On the other hand, if a Company wants to reduce wages at a particular time and the men object, according to this law the company cannot reduce its wages until a Board has investigated the case and made a statement in regard to it. In that way, the interests of the parties are respected, and the onus is put upon the party that wishes to change the status quo to show reason why it should or should not be done.

RESULTS

Now, as to the workings of the Act and its effect. It has been on the statutes for over five and a half years, six years in March next, so that the experiment has run on long enough to enable us to see whether there is any virtue in the measure.

During that time, five and a half years, up to September, 1912, from the official records, there have been altogether 132 applications for boards under the Act, 40 of these have had to do with coal mining, 10 with metalliferus mining, 53 with railways, 10 with street railways, 3 with longshoremen, 2 with freight-handlers, 1 with teamsters, one with sailors, 1 with ship-liners, 1 with deck-hands, 2 with commercial telegraphers, 2 with telephone workers, 1 with civic laborers, 2 with electrical workers, and 4 related to the boot and shoe industries and industries not necessarily under the act but who can come in under it if the parties acquiesce.

AVERTED ALL BUT FIFTEEN

During that time out of 132 applications for Boards, according to the statistical records, strikes were averted in all save 15 in these particular industries (applause).

In that connection let me put in one word of parenthesis. There were at the beginning, when the Act was first put into operation, one or two instances where the men came out without the knowledge of the existence of the Act upon the statute. This measure applies,

as you will bear in mind, from the Atlantic to the Pacific, and it takes some little time for men in all parts of a country to become acquainted with the provisions of existing law. There have been two or three cases where men have come out without knowing of the existence of the statute, and these figures would be subject to modification, in that connection; but I think in every case where they did come out, as soon as the law was brought immediately to their attention, they named a member for a Board, and had the difference settled under the law; and in all cases, with the exception of 15, by every reference that has been made to a Board, under this Act, a strike has been averted or ended. Of these 132 cases, 20 were settled after the application was made for a Board, but before the Board was actually appointed. There is a feature in connection with this act to keep in mind. The number of applications does not necessarily afford or give the truest index of the service which is being rendered the country by legislation of that kind. You can readily see that once a party is obliged to come with its case before the public, they are not going to rush into a situation and be exposed in regard to it unless they feel that there is a substantial measure of justice in the case. I know from personal knowledge both from the men and from employers that there have been cases where strikes would have taken place but for the fact that there was under this measure, the certainty of public investigation in regard to different features, and rather than have a public investigation, the parties themselves came together and settled their differences without any reference to a Board. (Applause.)

In 107 cases the Boards reported upon their work, and five cases were before Boards at the end of September.

STREET RAILWAY STRIKES

Now to bring out, perhaps, a little more clearly, the effect of this Act, let me first of all mention just two or three classes, and name them in particular, and show its results. Take the case of the street railways. We used to have in Canada a series of street railway strikes every year prior to the enactment of this law. There was not a year went by that we had not in some cities, in some years in a number of the cities, strikes on the street railways, and they were usually among the worst strikes which we had in the country. By "worst" I mean the public were very much inconvenienced; a great deal of property was destroyed, and in some cases there was serious injury, and I think in one or two cases loss of life in consequence of them.

Now since this Act has gone into force, now a period of six years nearly, we have had only one strike on all the street railway systems of the Dominion of Canada—just one strike (applause). That was a strike which took place in the city of Winnipeg after a Board had investigated, and it lasted only a few days, and then a settlement was made on the basis of the award given out by the Board (applause).

STEAM RAILWAYS

Then let us turn from street railways to steam railways. Here let me draw a distinction which is drawn in the administration of the Erdman Act. I have had the pleasure of reading recently the excellent report issued by Mr. Neill, and I notice that in that report he points out that the operation of the Erdman Act is limited strictly to the classes of employees who constitute what are known as the operating forces of a particular road; that is to say, the engineers, the firemen, the trainmen, the conductors, the section men, the telegraphers and switchmen. I believe those seven groups are the only groups with which the gentlemen who have been operating under that Act have attempted to deal.

Now in the Canadian Act, the appli-

cation is necessarily much wider than that. It includes all classes connected with railways; the men employed in the roundhouses, machinists, boilermaker, car-builders, and all that class of employees; freight-handlers, teamsters, if employed by railway companies; clerks in the offices of the railway companies. It takes in every class of employees belonging to a particular company.

There have been four strikes in Canada in the course of five and three-quarters years affecting railway employees; but if we leave out of account the classes other than those to which the Erdman Act applies, there has been since this Act went into force but one strike affecting the operating crews on the railways of the Dominion during that time. That was the Grand Trunk strike which took place a couple of years ago, and which took place after there had been an investigation under one of these Boards. There has been, as possibly some of you may have noticed, a strike recently, in connection with the C. P. R. of some classes of the employees, but the classes concerned were not the operating group. They have not affected in any way the transportation so far as the public is concerned. The Minister of Labor refused to grant a Board at the outset. He gave as his reason, and I am speaking now only from newspaper reports, that the number of questions to be dealt with were too many for a Board, or that the class of employees was not the class that the Act was intended to affect.

Well, he is a political opponent of mine, so I won't say whether he was right or whether he was wrong in the interpretation that he put upon the Act. (Laughter and applause.) But I will say this, that if I had been Minister of Labor the Act would have been applied and that strike would not have taken place (laughter and applause). However, the law is there. It is there to be administered according to its particular terms, and as I say, when you limit it in this way to the operating classes, there has been this one strike in that period of years.

IMMUNITY ALMOST COMPLETE

Then take another class of labor that we used to have a considerable number of strikes among, the men dealing with the loading of ships, ship laborers, and dock laborers, and wharf hands, and the like. Every spring in Halifax, Montreal or Quebec we had our steamship companies tied up as the consequence of some strike. Since that Act went into effect we have not had any stoppage in that particular industry.

We used to have another important industry affected at times, and that was the commercial telegraphers. You had a great strike in this country a short time ago of commercial telegraphers. Members of the same union were concerned in that strike in Canada, but in Canada this law was applicable and our men did not go out. I think they had an investigation under the Act, but we have not had, since this Act went into force, a single strike among the telegraphers or telephone operators in Canada.

So you see, gentlemen, if you take into consideration those different classes, take the street railways, the steam railways, the shipping companies, and the commercial telegraphers, you will see that so far as the agencies of transportation and communication are concerned, with the exception of the cases that I have mentioned, we have enjoyed for nearly five and a half years a complete immunity from industrial strife.

ACT GENERALLY APPROVED

Now you will ask me how is this Act viewed by the different classes in Canada. Well, I think I may say that the public generally have viewed that Act with a good deal of favor; that you could not get any government today to repeal that statute, if you tried. The Liberal government put it upon the

books. The Conservative government is in power today, and the Minister was asked the other day if it was his intention to repeal the Act, and he replied that he had no intention of the kind, no such intention whatever. So I think we may take it for granted that the Act has appealed to the general public to the extent, at least, that it will remain upon our books.

It would, perhaps, not be doing justice to human nature if we did not say that every measure is bound to have its detractors, and bound to have its men who will find fault with it, and there are plenty of men, some of them on very good grounds, and some of them perhaps not on the highest grounds, who are apt to find fault with any legislation one way or another.

I believe if you ask the managers of the companies that have been concerned with this particular measure, that you will find them pretty nearly unanimous in the approval which they give to its provisions.

ATTITUDE OF LABOR

Then when you come to the workingmen, perhaps I could not do better than just quote from what I quoted in Parliament at the time we were adding one or two amendments to the Act. The amendment was the one that I have spoken of, requiring the 30 days' notice. The other amendment was an amendment put in at the instance of railway employees, to meet what seemed to me a very fair need on their part. Under this act we required them, before they applied for a Board, to poll their whole system with a view of being able to make the declaration which the law requires, that a strike will take place unless a Board is granted. They pointed out that was a great deal of expense, particularly as they might have to poll from the Atlantic to the Pacific, and also from the circumstance that they would have to poll again later, to find out whether the finding of the Board would meet with the approval of the employees. They asked that some change should be made in that particular. So we amended the Act so that it would read, that in the case of railway employees, or, the employees of any utility extending beyond the boundaries of a single province, if a union was recognized by its employers, if the employers were entering into agreements, and had agreements with their organization, as is the case practically in all the railroad brotherhoods, in that case a declaration from the officers themselves that they had exhausted their means for a settlement of the differences existing, would be sufficient to cause the act to be invoked without the necessity of polling the whole organization.

At the time of introducing the amendment, I asked the representatives of the different railroad brotherhoods if they would give me their opinion of the Act so I might give it to Parliament and be in a position where I would know what I was saying in asking Parliament to grant the amendment suggested. Without reading in detail, I will quote from the official records of the debates of the House of Commons of Apri 26, 1910.

BROTHERHOODS SATISFIED

The first letter is a letter from Mr. Calvin Lawrence, the legislative representative of the Brotherhood of Locomotive Engineers. He said, in brief:

"I am pleased to say that I have very carefully looked over the suggested amendments and they appear to me to be very satisfactory, and, in my opinion, if adopted by Parliament, they should bring the Industrial Disputes Investigation Act of 1907 into a form generally satisfactory, and acceptable to railway employees; therefore, as representing the Brotherhood of Engineers, I can consistently endorse the Act when so amended, believing that it will, if amended as proposed, be a benefit not only to railway employees, but also to the public generally."

Mr. W. J. Dowell, legislative repre-

sentative of the Brotherhood of Locomotive Firemen and Enginemen, said:

"I have gone carefully over the amendments proposed, and I am of the opinion that they will be satisfactory should they become law as they are drafted. I am also of the opinion that the Industrial Disputes Investigation Act, if it is amended as proposed, will bring the act into a form which will meet with the general approval of the railway employees that I have the honor to represent."

Mr. John Maloney, legislative representative of the Brotherhood of Railroad Trainmen, said:

"I also feel if proposed amendments are adopted by Parliament, they will bring the Industrial Disputes Investigation Act into a form satisfactory and acceptable to all members of the trainmen's organization."

Mr. D. Campbell, Third Vice-President of the Order of Railroad Telegraphers, said:

"I desire to say that if these amendments can be obtained, the Act will be entirely satisfactory to our organization."

Mr. A. B. Lowe, President of the International Brotherhood of Maintenance of Way Employees, said:

"My opinion of the Act itself has never changed, that it is one of the best pieces of legislation that has been passed to my knowledge, in the interests of industrial peace." (Applause.)

Now, those, gentlemen, are some of the opinions expressed by some of the railway men at that time. They may have changed their opinions since then, but I believe that most of them have not, and that the leading men among the railroad brotherhoods in Canada today will endorse that legislation as in the interests not only of the public, but as in the interests of the railway employees as well. And I believe that if one confines the expression of opinion to the groups that come immediately under this act, one will find that on the whole it has met and is meeting today with pretty general approval throughout the Dominion.

ERDMAN ACT SUCCESSFUL

Now let me just in conclusion say one word in reference to your legislation here, and in reference to one or two suggestions that have been made elsewhere.

Naturally one hesitates to make any comparisons, but let me first of all speak of the Erdman Act, as I have seen from the accounts given in the report of that particular measure. I think it is stated in regard to the Erdman Act that within the last five or six years its provisions have been generally applied, and that in every instance except one in which the Act has been applied prior to the existence of a strike, in which the gentlemen who have acted as mediators under that measure have had the opportunity of intervention, they have prevented any strike or lockout taking place, and that as far as all strikes are concerned, and all disputes, that mediation, in every case where it has taken place, has proven effective.

Now, gentlemen, could there be a stronger endorsement for the principle, speaking broadly, the principle of government intervention in industrial disputes?

WHY LIMIT THE ACT?

The Erdman Act, as I have expressed to you already, is limited to the operating forces of railway employees only, but if it has had this great success, which it has had, why, let me say what I have often wished I might have the opportunity of saying, that I believe no finer testimonial in this world could be given to character, to manhood, to splendid ability than that act gives to Mr. Judge Knapp and Mr. Neill, who have had to do with its operation. (Applause.)

I think it has borne out that where you can get, as you have in these two gentlemen, men of strong personality,

men of character, men of influence, men of broad mind, and honest judgment, where you can give such men an opportunity of dealing with an industrial situation, they are able to effect settlements in the interests of the whole public. Now if the Act works so well in regard to the particular classes to which it applies; if industrial peace is what we are seeking, why limit its provisions to those particular classes alone and not frame up some measure which will be broad enough and wide enough to extend some such kind of intervention to all industries in the nature of public utilities, all industries which may affect the public one way or the other (applause)?

SPECIAL BOARDS BEST

Now it has been suggested that possibly that object could be best attained by means of a permanent board. Well, gentlemen, a permanent board has its great advantages undoubtedly, but there is one point to consider in connection with a permanent board—and as you are considering these questions now I hope you will not deem it presumptuous if I mention these points—which we considered at the time we were framing this Act.

A permanent board cannot get all over the country at one time. A permanent board has to be located in one place, and if you are going to have a measure broad enough to include all classes of public utilities, to deal with mines, to deal with street railways, to deal with all classes of railways, something wider in its nature or more easily suited to individual localities is essential, than one permanent board.

There is this factor, too, to consider in connection with it, and that is the effect of the attitude of a permanent board toward particular questions; and, on the other hand, the attitude of mind on the part of the parties affected toward those who compose a permanent board. If you get the right men, perhaps you can do anything with a permanent Board, but if you get the wrong men you will not do anything or you will do something that is worse than nothing (applause).

PARTIES CHOOSE BOARD

Now the difference between the two measures, between the permanent board idea and the appointment of particular boards for particular circumstances, is that under the scheme adopted in Canada you leave to the parties the choice of the men who are to compose the board. If you have got a Judge Knapp, if you have got a Mr. Neill, you give to the people from the Atlantic to the Pacific and from Canada to the Gulf of Mexico the opportunity of getting either of these gentlemen to act as a chairman on their particular board. These individual boards, in our country, have helped to evolve or rather to disclose to the public the type of man who is apt to win the greatest confidence. We have found where one chairman has succeeded in one case, he has been invariably picked upon as chairman for another Board, picked upon by the representatives of labor as well as the representatives of capital, because he has established in a preceding board a reputation for honesty in dealings of that kind.

Furthermore, there has been the opportunity of going all over the country and selecting the man best qualified for that particular class of dispute. Once you get a board giving a certain class of decisions, undoubtedly men of a particular mind will follow, to a certain extent, a line of precedent, and, on the other hand, once you get a bias, whether it is on the part of employers or employees against a particular man on a permanent board, that bias will operate to the detriment and the inefficiency of his work.

You get over that difficulty when you leave to each situation, as it develops, the appointing of the men best qualified to deal with that particular situation.

WHY LEAVE MEDIATION OPTIONAL?

If, as has been proven on every occasion where mediation under the Erdman Act has taken place under the guidance of these gentlemen, settlements have been effected, is it not worth while considering whether it might not be to the advantage of the public generally as well as to the parties themselves to see that it be not left optional with the parties as to whether or not mediation shall take place, but that some means shall be devised to secure mediation in advance of any strike or lockout? That is one of the factors worth considering, whether, it having been established that mediation is successful, it is not just as wise to have it before trouble breaks out as to have it after it has taken place.

Another suggestion that I believe has found favor in other countries and finds favor with some in Canada, and I believe also with some here, is the idea of compulsory arbitration.

Now the distinction between the Canadian Act and compulsory arbitration is that under compulsory arbitration you compel the parties, under pains and penalties, to accept the findings of a board and abide by them. Under the Canadian Act the compulsion is confined to the matter of investigation. You restrain the parties from striking or locking-out until the investigation has taken place.

BETTER WAY TO JUSTICE

Now men do not strike or lockout for the fun of it. They do that because they feel that, in the last resort that is their means of obtaining justice. We contend that under our measures we afford them a better means of obtaining justice than a strike or lockout, and we afford that means at the expense of the public, and we say if at the expense of the public, to whom you owe the operation of your utilities, you are able to get a more effective means for settling your difficulties than this weapon of the strike or lockout which leaves its legacies of debt and hatred behind it, we ask that you shall take advantage of that first, and if you are not satisfied with it, then go ahead and try this other particular weapon.

I know it has some disadvantages from certain points of view, but if you are considering the action over a period of time with the large masses of men, I believe on sober, careful thought that workingmen as well as employers and the public generally will come to see that that is the best way.

I think it was Pym, a British statesman, who said on one occasion, "That form of government is best which does actuate and dispose every member of the State to the common good."

I do not think as a maxim of govment that has ever been surpassed, and I think we can apply the philosophy underlying that to industrial situations as well, and we can say that that form of settlement of industrial differences is best which will best actuate and dispose every part and member of the industrial community to the common good.

THE HUMAN ELEMENT

Now, in thinking of compulsory arbitration, you have to take into account two things—human nature as it is and conditions as they are; and there are no two more variable factors in the world than these two. Economic phenomena are broader than mere legal phenomena, and while courts may be able to deal satisfactorily with certain classes of cases, it requires almost omniscient intelligence to be able to sum up in a way what is best under all circumstances for men and for companies, where you are dealing with human life and with conditions which vary, not merely with what happens within a particular area, but what happens within other parts of the world as well.

And so when you give to the parties who are involved in these disputes a

chance of naming their own member and of agreeing upon a chairman, you get a position where each side feels to a certain extent it has had to do with the shaping of the tribunal which is adjudicating upon its affair. You take account of that love of liberty in the individual man, of an assertion of his own rights. Men do not like to have things superimposed upon them. They would rather, to a large extent, share in the formation of particular tribunals and then fall in line with the particular award which may be given. That, I think, is an important consideration, and one that it is well to keep in mind in the framing of any measure.

Legal enactment can do a certain amount, but there are factors in life which are of vaster import in dealing with social conditions than the mere matter of legal enactment, and what the law can best do is to try to bring these factors to bear in some way upon industrial situations.

Men are more than measures. Therefore, in shaping any legislation have in mind that in the last anaylsis what should be aimed at is in some way to fashion the measure so that the right men may be brought to deal with it.

In the second place, personality is a greater thing than policy of any kind, and so in the fashioning of any legislation which you hope to make effective in dealing with industrial questions, try to draft a measure so as to leave play for that subtle and most important of all the factors known to man, the play of human personality in regard to particular questions.

PUBLICITY

Thirdly, publicity in some respects is more effective as a means of remedy than penalty. Penalty is a last resort, but a more effective means of bringing about a remedy to a situation is to frame it up, if you can, in such a fas ion that the light of pubic opinion m be brought to bear upon it. It is curious thing that while men, as in viduals, may be mean and contemp ble, still collectively and in a group a in the light of day, they cannot affo to let their action appear in that lig (Applause.)

All legislation should aim at prever ing the mean man from profiting in v tue of his meanness, and I believe t best way to bring about that result in some way to expose to the pub gaze either the employer or the wo ingman who may be seeking, throu his meanness, to profit in virtue of (applause).

If you can devise machinery whi will have that effect, then it seems me penalties are unnecessary. T sense of good throughout the world i reality more powerful than any pena which a law may impose.

And, lastly, gentlemen, rememb this, and this I would say particula to my friends, the workingmen, th is no truer statement in human philo phy than that maxim of Burke when stated, "Justice is the common c cern of mankind."

If you can fashion some meas which will enable you to place bef mankind at large a situation in its t and in its proper light, and bring its bearing upon the communi whether it be small or large, and pl your trouble and your wrong, wh ever it may be, before that great b of organized public opinion, if you fashion a measure toward that which will enable you to do that thi then it seems to me that you can lea with confidence, the result to the wo ing-out of that eternal maxim that "j tice is the common concern of m kind."

(Great and prolonged applause.

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